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November 22, 1993

Mr. William F. Caton
Acting Secretary of Federal
Communications Commission
1919 M Street, NW
Washington, DC 20054

Re: Pioneer Preference Rulemaking - ET Docket No. 93-266

Dear Mr. Caton:

Transmitted herewith on behalf of American Paging, Inc. are an original and nine copies of its Reply Comments in the above-captioned proceeding.

In the event that there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,


George Y. Wheeler

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

NOV 22 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Review of the Pioneer's
Preference Rules

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ET Docket No. 93-266

To: The Commission

REPLY COMMENTS OF
AMERICAN PAGING, INC.

American Paging, Inc., on behalf of itself and its subsidiaries, (collectively "API") herewith, by its attorneys, files its reply comments in the above-captioned proceeding.¹ Our reply comments address the establishment of charges to be paid by Mtel in consideration of its 50 KHz unpaired nationwide license pioneer preference award.

Discussion

We support the arguments in the comments of Pagemart, Pagenet, Pacific Bell, Southwestern Bell and others that Mtel should not be given a "free" nationwide narrowband PCS license. The unfairness and devastating anticompetitive consequences have already been documented by others. The potential "windfall" benefits to Mtel are totally unjustified in any financial sense.

¹ A list of parties filing Comments in these proceedings, including the abbreviated names used for reference in these Reply Comments, is Attachment A hereto.

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List A B C D E

We also agree that the Commission has authority under the statutory interpretation presented by Southwestern Bell² to require Mtel to make payment for its preference license award if there are more applicants for 50 KHz unpaired licensing than there are available licenses. Even though Mtel has a license "guaranteed" or "reserved" for it, this would clearly be a mutually exclusive situation in which payments to the U.S. Treasury should be due.

We believe that the simplest and most logical approach is for the Commission to decide that Mtel will be required to pay for its nationwide award if there are more than two bidders for 50 KHz unpaired nationwide licenses. We expect that there will be substantial bidder interest in these licenses so that all of these licenses will be subject to competitive bidding. If so, the "mutual exclusivity" features of Section 309(j) of the Act will have been met and all licensees, including Mtel, would be required to pay into the U.S. Treasury for their licenses.

Regarding the method of payment and the amount, we suggest that the Commission extend to Mtel the same installment payment options which are available to designated entities. The total due from Mtel for its "reserved" license should be the lowest of the winning bids for the other nationwide 50 KHz unpaired licenses. Also we believe that since Mtel would be paying the lowest amount, it should have last pick of the available frequencies.

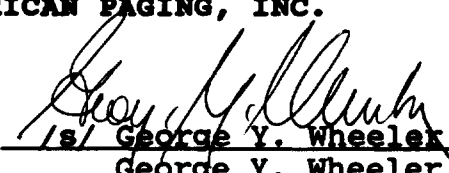
Conclusion

We believe that the foregoing is a fair result for Mtel in that it is guaranteed to receive a valuable nationwide license. It also is fair to other participants, particularly designated entities, who will be greatly disadvantaged competitively if Mtel were effectively given a disproportionate windfall. Also, the Commission would not be extending greater financial benefits to Mtel than are authorized for other potential competitors from among the designated entity groups. A remaining, but not inconsequential, benefit is that Mtel would be making significant payments into the U.S. Treasury. Pagemart, Pagenet, Southwestern Bell and other commenters have described that the Commission has the legal right to require Mtel to prevent Mtel from obtaining a "free" nationwide license. We request that the Commission act to compel such payment.

Respectfully submitted,

AMERICAN PAGING, INC.

By


/s/ George Y. Wheeler
George Y. Wheeler

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November 22, 1993

Attachment A

List of Parties Commenting in ET Docket No. 93-266

Adams Telcom, Inc., Advanced Tel., Inc, Columbia Wireless Limited Partnership, East Ascension Telephone Company, Inc., Middle Georgia Personal Communications, Paramount Wireless Limited Partnership, Reserve Telephone Company, Inc., Reserve Telecommunications and Computer Corp., and Tri-Star Communications, Inc.	("Appellant Parties" or "Parties")
Advanced Cordless Technologies, Inc.	("ACT")
Advanced MobileComm Technologies, Inc. and Digital Spread Spectrum Technologies, Inc.	("AMT")
American Personal Communications	("APC")
Ameritech	("Ameritech")
Arraycomm, Inc.	("ArrayComm")
Associated Communications Corporation	("Associated")
BellSouth Corporation BellSouth Telecommunications, Inc. BellSouth Cellular Corp. Mobile Communications Corporation of America	("BellSouth")
Cablevision Systems Corporation	("Cablevision")
CELSAT, Inc.	("CELSAT")
Corporate Technology Partners	("CTP")
Cox Enterprises	("COX")
Digital Satellite Broadcasting Corporation	("DSBC")
Grand Broadcasting Corporation	("Grand Broadcasting")
GTE Service Corporation	("GTE")
In-Flight Phone Corp.	
Motorola Satellite Communications, Inc.	("Motorola Satcom")

Montgomery Securities**Nextel Communications, Inc.**

("Nextel")

NYNEX Corporation

("NYNEX")

Omnipoint Communications, Inc.

("Omnipoint")

Pacific Bell and Nevada Bell**PageMart, Inc.**

("PageMart")

Paging Network, Inc.

("PageNet")

Panhandle Telephone Cooperative, Inc.

("Panhandle")

PCN America, Inc.**Personal Communications Services
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("QUALCOMM")

Rockwell International Corp.

("Rockwell")

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Southwestern Bell Corporation

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("Suite 12")

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("TRW")

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CERTIFICATE OF SERVICE

I, Abbie Weiner, a secretary in the law firm of Koteen & Naftalin, do hereby certify that a copy of the foregoing "Reply Comments of American Paging, Inc., was sent by first class U.S. mail, postage prepaid, on this 22th day of November, 1993 to the offices of the following:

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